

REMARKS/ARGUMENTS

Applicants have received the Final Office Action dated September 11, 2008, in which the Examiner: 1) rejected claims 1, 2, and 4-65 under 35 U.S.C. § 103(a) as being unpatentable over Spencer (U.S. Pat. No. 6,633,907, hereinafter “Spencer”) in view of Kelly (U.S. Pat. Pub. No. 2001/0056397, hereinafter “Kelly”). With this response, claim 1 has been amended. Based upon the amendments and arguments contained herein, Applicants believe this case is in condition for allowance.

I. REJECTIONS UNDER 35 U.S.C. § 103

Claim 1 has been amended to recite “receiving at least one unsolicited command to be executed on a network device.” Support for the amendment can be found at least in paragraphs [0014]-[0016], and [0049] of the specification. The Examiner cited Spencer, column 8, lines 24-57, as allegedly teaching reception of a command. The cited text in Spencer teaches “SCO methods [that] obtain configuration information from the data store 218.” Spencer teaches “each SCO is capable of reading its data from the data store 218 so that it has the information that it needs to provision its services.” Thus, even if the configuration information is broadly construed as a command, which Applicants believe to be an improper construction, the information is not unsolicited, but rather is requested from the data store by the SCO. Thus, the “command” is not unsolicited, and Spencer fails to teach or even suggest this limitation of amended claim 1.

Claim 1 also requires “determining whether the at least one command can be properly executed on said network device based upon the parameters read.” The Examiner cites Spencer, column 9, lines 9-62, as allegedly teaching these limitations. At the cited location, Spencer teaches a “configuration monitoring method,” wherein a “monitoring process monitors the configuration process and determines whether any configuration errors occur. If a configuration error occurs, then [it] determines whether rollback processing is necessary.” Spencer fails to teach or even suggest “determining whether the . . . command can be properly executed on said network device based upon the

parameters read,” but rather teaches monitoring during the process of configuration to determine whether an error has occurred. Spencer fails to even mention using “parameters read” as a basis for “determining whether the . . . command can be properly executed.”

Claim 1 further requires “executing the at least one command on said network device only if it is determined that the at least one command can be properly executed.” The Examiner again cites Spencer, column 9, lines 9-62, as allegedly teaching these limitations. However, Spencer teaches that configuration is active and in progress when errors are detected, and a determination of whether a rollback is necessary is made when an error is detected. (Spencer, column 9, lines 20-26). Thus, Spencer clearly does not teach “executing the . . . command . . . only if it is determined that the . . . command can be executed properly.” Rather, Spencer teaches performing configuration and determining during configuration whether configuration should be undone because configuration has not been properly executed.

Thus, Spencer fails to teach or even suggest the limitations of amended claim 1. Kelly fails to satisfy these deficiencies of Spencer. For at least these reasons, Applicants respectfully submit that amended claim 1, and all claims depending therefrom are allowable over Spencer and Kelly.

II. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in

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documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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